

## REMARKS

Claims 1-5, 7-9, 12-18 and 29-30 are pending in the current application. Applicants respectfully request clarification regarding the restriction requirement, which was acknowledged in the previous response.

Claim 1 is amended as discussed further below. Applicants respectfully request reconsideration based on the amendment to Claim 1. Newly added Claim 30 finds support in the application at page 4, lines 23 et seq.

### Rejection under 35 U.S.C. §112

Claims 1-5, 7-18 and 29 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for lack of definitions for the variables R<sup>11</sup> to R<sup>22</sup>. Applicants respectfully request clarification; these variables are defined in Claim 1 as follows: "R<sup>11</sup> to R<sup>22</sup> independently of one another denote hydrogen or a non-ionic substituent", with further explanation of non-ionic substituents.

Applicants have attempted to clarify the formulas to indicate where the bonds connect to adjacent moieties. Withdrawal of the §112 rejection is respectfully requested.

### Rejections under 35 U.S.C. §102

Claims 1, 2, 4, 7-13, 15, 17, and 29 are rejected under 35 U.S.C. §102(b) as anticipated by Berneth et al., WO 97/44365. Applicants respectfully traverse this rejection as it may pertain to the amended claims.

Claim 1 is amended to indicate that the present invention is directed to a process of writing and reading of digital information on a suitable storage medium. The optical writing process of the present invention produces changes in the surface topography of the storage medium, due to the photo-induced configurational changes in the polymers. The optical reading is effected by detecting changes in the surface topography.

No new matter is added by this amendment; language supporting this amendment can be found at page 39, lines 20-35, and in particular lines 29-31 on this page.

A key feature of the claimed process representing a clear departure from Berneth et al refers to the type of the read-out signal. In accordance with the present invention, the signal relates to surface topography of the storage medium whereas the referenced signal (column 3, lines 57-63 of U.S. Patent 6,423,799, the indicated equivalence of Berneth et al) is a double-refraction (birefringence) pattern. Applicants respectfully submit that Claim 1, and claims depending therefrom, are not anticipated by Berneth et al. Withdrawal of the §102 rejection is respectfully requested.

#### Rejections under 35 U.S.C. §103

Claims 1, 2, 4, 7-13, 15, 17, and 29 are rejected under 35 U.S.C. §103(a) as obvious and unpatentable over Berneth et al., WO 97/44365; or Berneth et al. in combination with Elmasry '819 and Savant et al., '221 (Claims 1-4, 7-13, 15-18 and 29); or Berneth et al. in combination with Elmasry, Savant, Ninomiya et al. or Akashi et al. (Claims 1-5, 7-18 and 29). Applicants respectfully traverse these rejections as they may pertain to the amended claims.

As explained above, the key difference between the process disclosed by Berneth et al. and the presently claimed process resides in the read-out signals. In Berneth et al. the signals are based on birefringence patterns whereas the corresponding signal in the inventive process refers to surface topography.

Savant et al. (US '221) is cited for the disclosure of a reflective layer, but does not provide the missing teaching, that of surface modification.

Elmasry (US '819) which is cited for the disclosure of a modulation means refers to a totally different chemistry. None of the additionally cited references, Ninomiya et al. or Akashi et al., describes the features of the present invention nor, in particular, the special surface modification. Therefore the present invention is not rendered obvious either by the references considered individually, or in combination. Applicants respectfully request withdrawal of all §103 rejections.

**CONCLUSION**

Applicants submit that all outstanding issues have been addressed and that Claims 1-5, 7-18, 29 and 30 are in condition for allowance; such action is respectfully requested at an early date.

Respectfully submitted,

By \_\_\_\_\_

  
Aron Preis  
Attorney for Applicants  
Reg. No. 29,426

Bayer MaterialScience LLC  
100 Bayer Road  
Pittsburgh, Pennsylvania 15205-9741  
(412) 777-3814  
FACSIMILE PHONE NUMBER:  
(412) 777-3902  
s:\shared\jmf\AP7059.amd